

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING & REGULATION
BEFORE THE STATE BOARD OF PHYSICAL THERAPY EXAMINERS**

IN THE MATTER OF:

TRACY ANN SMITH
License No.: PTA.2643 PTA

Respondent.

Case No.: 2012-5

CONSENT AGREEMENT

By agreement of the State Board of Physical Therapy Examiners (hereinafter "the Board") and the above named Respondent, the following disposition of this matter is entered pursuant to the provisions of S.C. Code Ann. § 1-23-320(f) (1976, as amended)¹, in lieu of, *inter alia*, a hearing before a hearing officer or panel appointed by the Board. Respondent, admitting the allegations herein and agreeing to the sanctions as set forth below, agrees to waive the authorization, filing, and service of a Formal Complaint and formal hearing procedures.

FINDINGS OF FACT²

1. Respondent is duly licensed and registered to practice in South Carolina as a physical therapist assistant. This license was first issued June 30, 2011 and is currently active. Respondent is subject to the jurisdiction of the Board pursuant to section 40-45-115.
2. Respondent is currently employed at Beaufort Memorial Hospital Rehabilitation Department as a licensed physical therapist assistant.
3. On December 18, 2011, Respondent was arrested for public disorderly conduct in Beaufort County and detained overnight at Beaufort County Detention Center.
4. Thereafter, Respondent reported the incident to her employer, voluntarily entered the Employee Assistant Program and was referred to treatment at the Recovery Place in Savannah, Georgia. Respondent was also evaluated by the Recovery Place and diagnosed with Alcohol Dependence. Respondent completed the Intensive Outpatient Program on March 15, 2012. The treatment was accepted by the South Carolina Recovering Professional Program (RPP) and Respondent is currently compliant with RPP.

¹ Further reference to the South Carolina Code of Laws and South Carolina Code of Regulations shall be by code section only.

² To the extent, any of the following Findings of Fact constitute Conclusions of Law, they are adopted as such, and to the extent, any Conclusions of Law constitute Findings of Fact, they are so adopted.

5. Respondent pled guilty to the charge of public disorderly conduct on or about July 10, 2012, and was sentenced to pay a fine and costs of two hundred seventy dollars and thirty-eight cents (\$270.38) or serve thirty (30) days in jail.
6. Respondent is currently compliant in all aspects with RPP, verified by her caseworker on November 21, 2012.
7. Respondent waives any further findings of fact with respect to this matter.

CONCLUSIONS OF LAW

1. Respondent admits that Respondent's actions in this matter constitute a violation of sections 40-1-110(1)(h).
2. Respondent waives any further conclusions of law with respect to this matter.

THEREFORE, WITH RESPONDENT'S CONSENT, IT IS AGREED:

1. Respondent's license shall be issued a public reprimand.
2. Respondent shall pay a civil penalty of **SEVEN HUNDRED AND FIFTY DOLLARS (\$750.00)** within **Thirty (30) Days** of the effective date of service for this Agreement. Said civil penalty is not deemed paid until received in full by the Board.
3. Respondent's license to practice in this State shall be suspended for an indefinite period of time. **HOWEVER, said suspension is immediately stayed and the license placed on probation for a period of five (5) years from the effective date of this Consent Agreement.**
4. Respondent shall, within six (6) months from the date of the Board's action on this Agreement, successfully complete board-approved courses in Ethics. The hours received from the Board-approved courses **will not** be computed in the calculation of total continuing education requirements for licensure or renewal. Respondent must provide proof of the successful completion of the courses.
5. Respondent shall continue her current treatment and monitoring programs and shall continue active participation with the South Carolina Recovering Professionals Program (RPP) in accordance with the terms of her RPP Participant Monitoring Agreement for a minimum monitoring program of five (5) years.
6. Respondent shall be supervised for a period of three (3) years by the individual responsible for supervising Respondent's employment, regardless of whether Respondent is in a management or nonmanagement position. Respondent shall have submitted to the Board quarterly written reports of Respondent's progress. Said written reports shall be submitted for a period of three (3) years from either the effective date of Respondent's employment or the effective date of this Consent Agreement, whichever is later. Said

reports are due by the tenth day of every fourth month after the effective date for said reports (as set forth above.) At the conclusion of the three-year period, if no additional complaints relating to Respondent's conduct are initiated, Respondent shall no longer be required to practice pursuant to this subsection. Failure to complete this requirement may prevent Respondent from being re-licensed.

7. Respondent acknowledges that Respondent has the right to a hearing and to be represented by counsel in this matter, and freely, knowingly, and voluntarily waives such rights by entering into this Consent Agreement. Respondent understands and agrees that by entering into this Consent Agreement Respondent voluntarily relinquishes any right to judicial review of Board action(s), which may be taken concerning any related matters.
8. It is understood and agreed that if Respondent fails to meet the conditions agreed to in this Consent Agreement, Respondent's license may be immediately *administratively* suspended pending compliance. Non-compliance may also result in further discipline. Any license law violation by Respondent constitutes a failure to meet the conditions of this Consent Agreement.
9. Respondent understands and agrees that this Consent Agreement will not become effective unless and until approved by the Board. Respondent understands and agrees that this Consent Agreement, if approved, will be disseminated as a public action of the Board in the manner provided by law.
10. Respondent understands and agrees that if this Consent Agreement is approved, it shall become a public document under the South Carolina Freedom of Information Act § 30-4-10, *et seq.*
11. Respondent understands and agrees that if this Consent Agreement is not approved, it shall not constitute an admission against interest in this proceeding or prejudice the right of the Board to adjudicate this matter. Respondent hereby agrees to waive any rights Respondent might have to challenge the impartiality of the Board to hear the underlying complaint based upon prior knowledge obtained by the Board through consideration of this Consent Agreement if, after review by the Board, this Consent Agreement is not approved.
12. Respondent shall, within thirty (30) days, notify the Board in writing of any changes in name, mailing address, or compliance with this Consent Agreement. Correspondence and copies of reports, notices and payments of civil penalties mentioned herein shall be directed to:

SC Dept. of Labor, Licensing and Regulation
ATTN: State Board of Physical Therapy Examiners - Compliance
Post Office Box 11329
Columbia, SC 29211-1329

13. This Consent Agreement shall take effect immediately upon receipt of a fully executed copy by Respondent or counsel for Respondent.

(Signatures on following page)

AND IT IS SO ORDERED.

STATE BOARD OF PHYSICAL THERAPY
EXAMINERS

1-10-13
Date

BY: Marilyn M. Swygert, PT
Marilyn M. Swygert, P.T.
Board Chair

I CONSENT:

[Signature]
TRACY ANN SMITH
Respondent

12/17/12
Date

[Signature]
Witness or Attorney

12/17/12
Date

[Signature]
ERIN G. BALDWIN
Assistant General Counsel
S.C. Department of Labor, Licensing & Regulation
PO Box 11329
Columbia, SC 29211-1329
(803) 896-4581

12/17/12
Date

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION
BEFORE THE STATE BOARD OF PHYSICAL THERAPY EXAMINERS**

In the Matter of:

Tracy Ann Smith
License No. PTA 2643

Respondent

Case No.: 2012-5

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served within the **Consent Agreement** upon the person hereafter named, by placing the same in an envelope, securely wrapped, in the United States Mail, via certified mail, return receipt requested, and via first class mail, properly addressed to the said person hereafter named, at the place and address stated below, which is the last known address for the same:

Tracy Ann Smith



SOUTH CAROLINA DEPARTMENT OF
LABOR, LICENSING & REGULATION

A handwritten signature in black ink, appearing to read "Veronica S. Sledge", written over a horizontal line.

Administrator
LLR-Office of Board Services
Post Office Box 11329
Columbia SC 29211 1329

01/11, 2013.